

IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

RSA No.2489 of 1989 (O&M)  
Date of Decision: 08.05.2018

Sardara Singh

..... Appellant

Versus

Shanti Parkash and others

..... Respondents

**CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL**

Present:- None.

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**ANIL KSHETARPAL, J.**

In this case, learned counsel for the parties have not chosen to appear. Hence, on 27.04.2018 after noticing that the counsel for the appellant has been informed of the listing of the case and he has not come present, the judgment was reserved.

Defendant No.4-appellant is in the regular second appeal against the concurrent finding of fact arrived at by the Courts below decreeing the suit for possession of the property in dispute i.e. house.

It is the case of the plaintiffs that originally this house was owned by their father Jwala Ram and after his death, the plaintiffs and their two other brother became owner as per natural succession. It is further claimed that pursuant to a money decree being passed against Jwala Ram, the house in question was attached and defendant No.3-Baldev Singh claiming to be owner of half share filed third party objections. However, the objections were dismissed and Jwala Ram was held to be exclusive owner.

Jwala Ram also filed objection claiming that this is the only residential house, therefore, exempt from attachment and sale in execution of the money decree. The aforesaid objections were allowed and Jwala Ram was declared owner of the house. Defendants No.1 to 3 contesting the suit on the ground that they are co-owners. Defendant No.4 claimed that defendant No.1 to 3 have sold the property by registered sale deed dated 09.08.1982 in his favour. Both the Courts after appreciating the evidence available on the file and after relying upon the earlier orders passed by the Courts decreed the suit. Learned trial Court has also noticed that in those proceedings, a rent note was produced claiming that one Sh. Kartar Singh had leased out the property in favour of his father Balbir Singh (father of Baldev Singh). In a previous proceeding, the Court held that the aforesaid rent note is not with respect to the property in dispute.

This Court has gone through the grounds of appeal. In the grounds of appeal, it is contended that the Courts below have not appreciated that the defendants have become owner by way of adverse possession. It has further been contended that no issue on the limitation has been framed. Apart therefrom, there is no other substantial ground taken in the grounds of appeal. A reading of the issues framed by the learned trial Court proves that defendant No.4 was found to be bona fide purchaser without notice and for valuable consideration. However, keeping in view the well settled principle and no one can pass better title than what he himself has, the Court rejected the contention of defendant No.4. There is no issue on adverse possession. Still further, the plaintiffs claimed themselves to be the owner of the property. A suit filed by the owner claiming possession can only be defeated if it is established that the other

party has perfected his title by way of adverse possession. In the present case, the defendants failed to prove that.

In view of the aforesaid, there is no ground to interfere with the concurrent finding of fact arrived at by the Courts below.

Appeal is dismissed.

08.05.2018  
Dinesh Bansal

( ANIL KSHETARPAL )  
JUDGE

Whether speaking/reasoned	Yes / No
Whether Reportable	Yes / No